

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 7803**

**BILL NUMBER:** HB 1919

**DATE PREPARED:** Apr 29, 1999

**BILL AMENDED:** Apr 29, 1999

**SUBJECT:** Various environmental matters.

**FISCAL ANALYST:** Kristin Breen

**PHONE NUMBER:** 232-9567

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (CCR Amended) (1) This bill requires the Indiana Department of Environmental Management (IDEM) to publish the Legislative Services Agency fiscal analysis of certain proposed rules in the Indiana Register before the Air Pollution Control Board, the Water Pollution Control Board, or the Solid Waste Management Board can adopt the rules. It requires the text of the fiscal analysis to be among the written materials considered at a board meeting held before the adoption of certain rules.

(2) It requires the commissioner of IDEM to approve or deny permits within a certain number of days. It provides a new deadline for a person to file an appeal of the commissioner's decision to issue an initial permit under the operating permit program.

(3) It requires the commissioner to proportionally reduce the fees billed to sources with NPDES permits, solid waste permits, and hazardous waste permits if the funds in the Environmental Management Permit Operation Fund less obligated expenditures exceed certain amounts. It permits the Solid Waste Management Board and the Water Pollution Control Board to change the amount of the cap by rule provided the new amount does not exceed the amount in the statute.

(4) It amends special waste requirements.

(5) It amends the voluntary environmental audit privilege to do the following: (a) specify that the privilege does not apply to criminal actions; (b) prohibit public disclosure of certain portions of certain audit reports; and (c) specify that the administrative or civil evidentiary privilege is not waived when the report is used in a criminal proceeding. It requires IDEM to: (a) maintain certain statistics on the use of environmental audit reports and (b) propose an enforcement policy that provides relief from civil penalties for a voluntary disclosure that results from an audit. It requires IDEM to report annually to the Environmental Quality Service Council on: (a) the use of environmental audit reports and (b) the use and effectiveness of the enforcement policy.

(6) It requires IDEM to adopt a written policy concerning sources that emit styrene and to follow certain guidelines and procedures before publishing the policy. It requires the Air Pollution Control Board to adopt rules to establish appropriate standards for sources that emit styrene and to consider certain information when adopting the rules.

(7) It requires the Environmental Quality Service Council to: (a) review permit accountability timeframes and (b) recommend to the General Assembly circumstances in which IDEM should provide a transition period to allow certain people to choose between following certain rules, policies, and guidance documents or following the department of environmental management's RISC guidance document.

**Effective Date:** (Amended) May 1, 1999 (retroactive); Upon passage; July 1, 1999.

**Explanation of State Expenditures:** (Revised) (1) This bill requires the Indiana Department of Environmental Management (IDEM) to publish the Legislative Services Agency fiscal analysis of certain proposed rules in the Indiana Register before the Air Pollution Control Board, the Water Pollution Control Board, or the Solid Waste Management Board can adopt the rules. This would have a minimal impact on the cost of publishing the *Indiana Register*. The actual impact depends on the number of fiscal analyses to be published. Expenses associated with publishing the *Indiana Register* are paid from the state General Fund.

(2) It reduces the number of days that IDEM has to approve or deny certain permit applications. The current and proposed number of days for the four affected permits are listed below.

	Current	Proposed
Minor New National Pollutant Discharge		
Elimination System (NPDES) General Permit	180	150
Wastewater Facility Construction Permit	120	90
Water Facility Construction Permit	120	90
Special Waste Certification	60	50

It is estimated that NPDES permits and special waste certifications can be approved or denied within the proposed specified time frame without a fiscal impact. Water and wastewater facility construction permit staff may need to work an indeterminable amount of overtime to either approve or deny the applications within the proposed specified time frame. Overtime expenses would be paid out of the Environmental Management Permit Operation Fund.

(4) It provides that a person may not be required to have special waste certified for disposal if the special waste is disposed of at a solid waste landfill cell or unit that meets or exceeds Subtitle D design standards of the federal Resource Conservation and Recovery Act and the person complies with certain notification requirements. Currently, generators of certain solid waste must apply to IDEM for special waste certification. This may exempt some state agencies that generate special waste from the certification requirements. This would decrease their certification fee expenses. Solid waste generators must pay a \$250 fee for each special waste certification.

This will be some administrative expenses associated with the adoption of rules. The Solid Waste Management Board's expenses are paid out of the Environmental Management Special Fund.

(5) See State Revenues.

(6) It requires IDEM to adopt a written policy concerning sources that emit styrene and to follow certain guidelines and procedures before publishing the policy. It requires the Air Pollution Control Board to adopt rules to establish appropriate standards for sources that emit styrene and to consider certain information when adopting the rules. This may increase the administrative expenses of IDEM. It is estimated that the additional expenses can be absorbed within IDEM's current budget.

**Explanation of State Revenues:** (Revised) (3) It requires the commissioner of IDEM to reduce the fees billed to sources with NPDES permits, solid waste permits, and hazardous waste permits, if the unobligated balance of the Environmental Management Permit Operation Fund exceeds certain amounts.

*NPDES Permits:* It requires that if the unobligated balance of the Environmental Management Permit Operation Fund collected under NPDES permits exceeds \$2.5 million, permit fees must be reduced proportionally. It is estimated that this would reduce NPDES permit revenue in FY 2000 and possibly beyond. The available cash balance under NPDES permits was approximately \$5.8 million on June 30, 1998 and approximately \$8.9 million on June 30, 1997. In FY 98, NPDES permit revenue equaled approximately \$3.9 million. The actual decrease in permit fee revenue each year is dependent upon the unobligated balance at the beginning of each fiscal year, as well as total annual revenue and expenditures.

*Solid Waste Permits:* It requires that if the unobligated balance of the Fund collected under solid waste permits exceeds \$2.5 million, permit fees must be reduced proportionally. It is estimated that this may reduce solid waste permit revenue in FY 2000 and beyond. The available cash balance under solid waste permits was approximately \$2.5 million on June 30, 1998 and approximately \$4.7 million on June 30, 1997. In FY 98, solid waste permit revenue equaled approximately \$3.2 million. The actual decrease in permit fee revenue each year is dependent upon the unobligated balance at the beginning of each fiscal year, as well as total annual revenue and expenditures.

*Hazardous Waste Permits:* It requires that if the unobligated balance of the Fund collected under hazardous waste permits exceeds \$2.5 million, permit fees must be reduced proportionally. It is estimated that this would reduce hazardous waste permit revenue in FY 2000 and beyond. The available cash balance for hazardous waste permits was approximately \$4.3 million on June 30, 1998 and approximately \$5 million on June 30, 1997. In FY 98, hazardous waste permit revenue equaled approximately \$2.5 million. The actual decrease in permit fee revenue each year is dependent upon the unobligated balance at the beginning of each fiscal year, as well as total annual revenue and expenditures.

Revenue in the Environmental Management Permit Operation Fund is used for permitting and other activities directly associated with the NPDES, solid waste, and hazardous waste programs of IDEM and its boards. The Fund also receives revenue from other state, federal, and miscellaneous sources each year.

(4) It is estimated that this bill would decrease the number of certifications that IDEM must approve by five to ten per year. Solid waste generators must pay a \$250 fee for each special waste certification. This would reduce certification revenue by \$1,250 to \$2,500 per year. Fee revenue is deposited in the Environmental Management Permit Operation Fund.

(5) It specifies that the voluntary environmental audit privilege does not apply to criminal actions. The U.S. Environmental Protection Agency (EPA) has threatened to withhold delegation of authority for environmental programs if the audit privilege statute is not amended to eliminate the application of the audit privilege to criminal investigations and proceedings. If IDEM loses authority for any program, it would lose associated federal grants. The loss of authority for any program would also decrease related expenditures.

It requires IDEM to propose an enforcement policy that provides relief from civil penalties for a voluntary disclosure that results from an audit. This may decrease civil penalty revenue. The amount of a penalty and where it is deposited is dependent upon the type of violation. Revenue from civil penalties is deposited in the following funds: the Environmental Management Special Fund, the Waste Tire Management Fund, the Underground Storage Tank Trust Fund, and the Asbestos Trust Fund.

**Explanation of Local Expenditures:** (Revised) (3) It requires the commissioner of IDEM to reduce the fees billed to sources with NPDES permits, solid waste permits, and hazardous waste permits, if the unobligated balance of the Environmental Management Permit Operation Fund exceeds certain amounts. This could reduce permit fees paid by local units of government.

(4) This may exempt some local units of government that generate special waste from the certification requirements. This would decrease their certification fee expenses. Solid waste generators must pay a \$250 fee for each special waste certification.

**Explanation of Local Revenues:**

**State Agencies Affected:** Indiana Department of Environmental Management; General Assembly; Legislative Services Agency; Office of Environmental Adjudication; State agencies that have environmental permits or that generate special waste.

**Local Agencies Affected:** Local units of government

**Information Sources:** Erika Seydel Cheney, Indiana Department of Environmental Management, 232-8598; Linda Miller, Legislative Services Agency.